

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

DEVIN COPELAND p/k/a DE RICO and
MAREIO OVERTON,

Plaintiffs,

vs.

JUSTIN BIEBER, USHER RAYMOND
IV p/k/a "USHER," HEATHER
BRIGHT, Individually and d/b/a B-
RHAHA PUBLISHING, UNIVERSAL
MUSIC CORP., SONY/ATV MUSICAL
PUBLISHING, LLC, WB MUSIC
CORP., THE ISLAND DEF JAM
MUSIC GROUP,

Defendants.

CASE NO. **2:13-cv-246**
(AWA-TEM)

PLAINTIFFS' MEMORANDUM IN SUPPORT OF ITS MOTION TO SEAL

Plaintiffs Devin Copeland p/k/a DeRico and Mareio Overton ("Plaintiffs"), in accordance with Local Rule 5 and Order of the Court, file this, their Memorandum in Support of their Motion to Seal Exhibit N to the Declaration of Duncan G. Byers in Support of Plaintiffs' Opposition to Defendants' Joint Motion to Strike Portions of the Expert Report of Jason A. Deans, CPA, CVA.

BACKGROUND

Plaintiff requests that Exhibit N be filed under seal because it contains documents or information that Defendants have designated "Confidential Information" pursuant to the Stipulated and Agreed Protective Order ("Protective Order") entered by this Court on September

24, 2015. Exhibit N contains the deposition transcript of Barry Massarsky, Defendants' designated damages expert. Defendants have designated these documents as "Confidential" under the Protective Order and, which allows such a designation when "the Producing Party deems [the document] to contain a trade secret or other confidential research, development, commercial, financial or personal information, the public disclosure of which may cause the Producing Party embarrassment or competitive harm." Protective Order, §2.1.1.

ARGUMENT

A district court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000) (citing *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984)). However, there is a presumption in favor of public access to court records. *Id.* In order to seal documents the court must "(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." *Id.*; see also *Va. Dep't of State Police v. Washington Post*, 386 F.3d 567(4th Cir. 2004); *Rushford v. New Yorker Magazine Inc.*, 846 F.2d 249, 253 (4th Cir. 1988); *Campbell v. Ethex Corp.*, 464 F. Supp. 2d 559, 561 (W.D.Va. 2006).

Plaintiffs are placed in the counterintuitive position of having to submit an argument as to why Defendants' records should be held under seal and remain confidential. Plaintiffs are not admitting that the documents at issue should be considered confidential or are even relevant or admissible to the underlying matter. Plaintiff are, however, in the spirit of the Protective Order,

presenting a good-faith argument why the documents in question should be submitted and kept under seal.

WHEREFORE, Plaintiffs hereby respectfully request that this Honorable Court grant the Motion to Seal and seal Exhibit N in the above-referenced matter and grant such other and further relief as the Court deems appropriate.

Dated: June 16, 2016

Respectfully submitted,

/s/ Duncan G. Byers
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2016, I served the foregoing document by electronic mail to the following:

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